

Decision No. R04-0002-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03F-497T

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CHARLES H. JORDAN,

COMPLAINANT,

V.

EL PASO COUNTY TELEPHONE COMPANY,

RESPONDENT.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
DALE E. ISLEY  
DENYING MOTION TO DISMISS  
COMPLAINT OR CONTINUE HEARING**

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Mailed Date: January 2, 2004

**I. STATEMENT**

1. The captioned proceeding was commenced on November 12, 2003, when Complainant, Charles H. Jordan (Jordan), filed a formal complaint (Complaint) with the Colorado Public Utilities Commission (Commission) against Respondent, El Paso County Telephone Company (EPCTC).

2. On November 14, 2003, the Commission served its Order to Satisfy or Answer (Order to Satisfy) along with an Order setting this matter for hearing on January 6, 2004. The Order to Satisfy summarized the procedural requirements imposed on the parties by Rule 72(a) of the Commission's *Rules of Practice and Procedure*, 4 *Code of Colorado Regulations* 723-1-72(a)(Rule 72(a)), governing this proceeding.

3. EPCTC filed its Answer to the Complaint on December 2, 2003.

4. On December 22, 2003, EPCTC filed a Motion to Dismiss the Complaint or, in the Alternative, to Compel Rule 72 Compliance and to Continue the Complaint Hearing (Motion). The Motion requests that the application either be dismissed or that the January 6, 2003, hearing be continued by virtue of Jordan's failure comply with Rule 72(a).

5. On December 23, 2003, the response period to the Motion was shortened to December 31, 2003. *See*, Decision No. R03-1445-I. Jordan did not file a response to the Motion.

6. A review of the Commission's file in this matter reveals that Jordan has not filed a timely certification of his intent to proceed to hearing, a witness list, or copies of exhibits he may intend to use at the hearing as required by Rule 72(a). However, Jordan is representing himself in this matter and it appears from the Complaint that he is not an attorney. The Commission grants some latitude to *pro se* complainants appearing before it. For example, Rule 72(b) provides that Rule 72(a) will not be strictly applied to non-attorney, *pro se* complainants and that motions to dismiss complaints based on the failure of such complainants to comply with Rule 72(a) will not ordinarily be granted.

7. Jordan's failure to comply with Rule 72(a) has, however, potentially inhibited EPCTC's ability to prepare its case by failing to disclose witnesses Jordan may call at the hearing (other than himself) or exhibits he may offer into evidence. *See*, Rule 72(a)(5). Rule 72(a)(7) provides that no witness shall be permitted to testify and no document shall be received into evidence (except in rebuttal) at the hearing unless the complainant complies with Rule 72(a)(5). Therefore, if Jordan wishes to proceed to hearing on January 6, 2004, he will not be allowed to

call witnesses other than himself to testify, except in rebuttal to evidence that may be presented by witnesses called by EPCTC. Nor will he be allowed to introduce documents into evidence, except in rebuttal to evidence that may be offered by EPCTC.

8. For the foregoing reasons, the Motion will be denied.

## **II. ORDER**

### **A. It Is Ordered That:**

1. The Motion to Dismiss the Complaint or, in the Alternative, to Compel Rule 72 Compliance and to Continue the Complaint Hearing, filed in this matter by El Paso County Telephone Company, is denied, consistent with the terms of this Order.

2. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge